

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**DESHAWN GIVENS,**

**Plaintiff,**

**v.**

**Civil Action 2:18-cv-163  
Chief Judge Edmund A. Sargus, Jr.  
Magistrate Judge Jolson**

**MAJOR TUNNER, et al.,**

**Defendants.**

**REPORT AND RECOMMENDATION**

On March 29, 2018, this Court ordered Plaintiff to resubmit a summons and U.S. Marshal Form 285 (*see* Doc. 2) for each named Defendant within fourteen (14) days so that the United States Marshals Service could effect service of process by certified mail. (Doc. 4). Plaintiff, however, failed to do so and Defendants were never served. Consequently, in a July 16, 2018 Order, the Court explained to Plaintiff that under Rule 4(m) of Federal Rules of Civil Procedure, “[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant[.]” (Doc. 6). The Court thus ordered Plaintiff to show good cause within fourteen days why this action should not be dismissed for failure to timely effect service of process. Plaintiff failed to respond.

Based upon the foregoing, it is **RECOMMENDED** that this action be dismissed for failure to timely effect service of process under Rule 4(m) of Federal Rules of Civil Procedure.

**Procedure on Objections**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific

proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

IT IS SO ORDERED.

Date: August 7, 2018

/s/ Kimberly A. Jolson  
KIMBERLY A. JOLSON  
UNITED STATES MAGISTRATE JUDGE